

REMARKS

In the Office Action, claims 1-4, 9-15, and 27-33 were allowed and claims 5, 6, 8, 16-19, 24-26, and 34-36 were rejected. In addition, claims 7 and 20-23 were objected to as being dependent upon a rejected base claim, but allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant would like to thank the Examiner for indicating the allowability of claims 1-4, 7, 9-15, 20-23, and 27-33. By the present Response, claims 5, 7, 16, 19, 20, 21, and 23 have been amended. Upon entry of the amendments, claims 1-36 will remain pending in the present application. Reconsideration of the rejections and allowance of all pending claims are respectfully requested.

First Rejection Under 35 U.S.C. § 112

Claim 19 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 19 has been amended by this response. Withdrawal of the rejection is respectfully requested.

First Rejection Under 35 U.S.C. § 102

Claims 24-26 and 34-36 were rejected under 35 U.S.C. § 102(b) as being anticipated by Colangelo, Jr., (hereinafter "Colangelo"), U.S. Patent No. 6,025,574. Claims 24, 26, 34, and 35 are independent claims. Claim 25 depends from claim 24 and claim 36 depends from claim 35. Applicant respectfully traverses the rejection.

In the Office Action, the Examiner stated that:

Colangelo, Jr. discloses a MIG welding assembly having the combination of an electric power source, a wire feeder, and an inert shielding gas source, in which the welding assembly additionally includes the following: an electrically coupled welding gun 1 with a handle 2 having first and second ends, as well as various cross-sectional shapes over its length in the longitudinal direction, but also having increasing cross-sectional area from a location

(arbitrary) between the respective first and second handle ends, a trigger (switch) secured to the handle, and a welding cable secured to the handle that has a gripping portion capable of being held in a variety of orientations with respect to trigger position (abstract; column 1, lines 38-67; column 2, lines 1-30 and 66-67; column 3, lines 1-67; column 4, lines 1-67; column 5, lines 1-16; and Figures 1-8).

However, the Examiner has failed to establish a *prima facie* case of anticipation of claims 24-26 and 34-36 by the Colangelo reference. A *prima facie* case of anticipation under 35 U.S.C. § 102 requires a showing that each limitation of a claim is found in a single reference, practice or device. *In re Donohue*, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985). In the present rejection, the Examiner has failed to show that each limitation of the claims is found in the Colangelo reference.

For example, the Examiner has not provided any evidence that the Colangelo reference discloses a welding handle piece, comprising: “a first and a second receiving portion adapted to capture a welding cable connector when secured to a corresponding welding handle piece, each receiving portion being located at an opposite end of the welding handle piece,” as recited in independent claim 24. Furthermore, the Colangelo reference clearly does not disclose these recited features. Colangelo simply does not have receiving portions located at opposite ends of a welding handle piece that are adapted to capture a welding cable connector.

In the Response to Arguments portion of the Office Action, the Examiner stated that:

With regard to the applicant’s arguments on pages 10-16 of the amendment, the examiner respectfully disagrees with the applicant’s assessments of Colangelo, Jr. and Wakeman. For claims 24 and 25, both references include the limitation “each receiving portion” (e.g. holes at the opposite ends of the handle that are “adapted to” or “capable of” receiving welding cable from opposite directions).

However, the Examiner's arguments are not directed to the recited features of claim 24. Claim 24 does not recite that the receiving portions of the handle are adapted to or capable of receiving a welding cable from opposite directions. Instead, claim 24 recites "a first and a second receiving portion adapted to capture a welding cable connector...each receiving portion being located at an opposite end of the welding handle piece." The Examiner has not provided any evidence that the Colangelo reference discloses these recited features. Therefore, the Examiner has not established a *prima facie* case of anticipation of claim 24. Claim 25 depends from claim 24 and, therefore, also is not anticipated by Colangelo.

Independent Claim 26

In addition, the Examiner has failed to establish a *prima facie* case of anticipation of independent claim 26 by the Colangelo reference. The handle 2 of the welding gun 1 of Colangelo simply does not increase in cross-sectional in each direction from a location between the first and second end portions of the handle to the first and second end portions of the handle. Thus, the Colangelo does not disclose a handle "adapted to increase cross-sectional area of the handle from a location between the first and second end portions in each direction to the first and second end portions," as recited in independent claim 26.

Independent Claim 34

In addition, the Examiner has not provided any evidence that the Colangelo discloses "wherein the handle is adapted to be gripped by a user...in a second orientation at the desired cross-sectional area to enable the user to operate the trigger with one of a thumb and the palm of a hand by placing the one of a thumb and the palm of a hand on the trigger," as recited in independent claim 34. The handle 2 of Colangelo is clearly constructed to enable the trigger 5 to be operated by placing a finger on the trigger 5, not by placing a palm of a hand or a thumb on the trigger 5. The curved shape of the handle 2 in general and the curved portion designed to receive a finger both interfere with the ability of a user to operate the trigger with a thumb or the palm of a hand.

In the Response to Arguments portion of the Office Action, the Examiner stated that:

For claims 34-36, both references include respective handle portions that are capable of being gripped in a wide variety of orientations (e.g. fingers, thumb, palm), such that the functional language in the last limitation of the claims would be met (individually) by both references.

However, the Examiner did not provide any evidence to support this assertion. A visual observation of the handle clearly shows that the handle of Colangelo is not intended to be gripped with a palm of the hand or a thumb against the trigger. Therefore, Colangelo does not disclose all of the recited features of amended independent claim 34. Accordingly, Colangelo does not anticipate claim 34.

Independent Claim 35

Finally, the Examiner has also failed to provide any evidence that the Colangelo reference discloses “a handle portion securable to a welding cable and adapted to direct the welding cable linearly along an axis through the handle portion, the handle portion having a varying cross-sectional area adapted to enable a user to grip the handle portion at a plurality of cross-sectional areas,” as recited in independent claim 35. The handle 2 of Colangelo directs a welding cable through the handle 2. However, the handle 2 is curved and cannot direct a welding cable linearly along an axis through the handle.

In addition, the Examiner has also failed to provide any evidence that the Colangelo discloses a welding handle “wherein the handle portion is adapted to be gripped by a hand in a first orientation and a second orientation relative to the hand, the handle portion being rotated 180 degrees about the axis from the first to the second orientation,” as also recited in claim 35. The handle 2 of Colangelo clearly is adapted to be gripped in a first orientation only, and not in a second orientation rotated 180 degrees about the axis from the first orientation. Therefore,

Colangelo does not disclose all of the recited features of independent claim 35. Accordingly, Colangelo does not anticipate claim 35, or claim 36, which depends therefrom.

For all of these reasons, the Colangelo reference does not anticipate claims 24-26 and 34-36. Withdrawal of the rejection and allowance of the claims are respectfully requested.

Second Rejection Under 35 U.S.C. § 102

Claims 5, 6, 8, and 16-19 were rejected under 35 U.S.C. § 102(b) as being anticipated by Jones, U.S. Patent No. 2,104,750. Independent claims 5 and 16 have been amended by this response. Claims 6, 8, and 17-19 depend from independent claims 5 and 16, respectively.

Claims 5, 6, 8, and 16-19 are not anticipated because the Jones reference does not disclose all of the recited features of the claims. For example, the Jones reference does not disclose “a trigger secured within the welding handle between the first end and the second end, as recited in amended independent claim 5, or “a portion operable to secure a trigger between the first and second ends,” as recited in amended independent claim 16.

The Jones reference discloses an electrode holder that does not have a trigger. Electric current flows through an electrode held by the holder as soon as the electrode is contacted against a grounded surface, not by operating a trigger. Therefore, Jones does not disclose all of the recited features of the claims.

Accordingly, Jones does not anticipate amended independent claims 5 and 16. In addition, claims 6, 8, and 17-19, which depend from independent claims 5 and 16, respectively, are not anticipated by Jones. Withdrawal of the rejection and allowance of the claims are respectfully requested.

Third Rejection Under 35 U.S.C. § 102

Claims 24-26 and 34-36 were rejected under 35 U.S.C. § 102(e) as being anticipated by Wakeman, U.S. Publication No. 2003/0015510. Claims 24, 26, 34, and 35 are independent claims. Claims 25 and 36 are dependent claims. Applicant respectfully traverses the rejection.

As with the Colangelo reference, the Examiner has also failed to establish a *prima facie* case of anticipation of claims 24-26 and 34-36 by the Wakeman reference. For example, the Examiner has failed to establish that the Wakeman reference discloses a welding handle piece, comprising: “a first and a second receiving portion adapted to capture a welding cable connector when secured to a corresponding welding handle piece, each receiving portion being located at an opposite end of the welding handle piece,” as recited in claim 24. The Wakeman reference does not disclose these recited features and the Examiner has not provided any evidence that it does. Therefore, independent claim 24 is not anticipated by the Wakeman reference. Claim 25 depends from independent claim 24 and, therefore, also is not anticipated by Wakeman.

Independent Claim 26

In addition, the Examiner has failed to establish that the Wakeman reference discloses a welding handle piece, comprising: “a gripping portion, wherein the gripping portion is adapted to cooperate with a corresponding welding handle piece to increase cross-sectional area of the handle from a location between the first and second end portions in each direction to the first and second end portions,” as recited in amended independent claim 26. There is no location on the handle 38 of Wakeman in which the cross-sectional area of the handle increases in each direction from that location to the end portions of the handle 38. Therefore, Wakeman does not anticipate independent claim 26.

Independent Claim 34

One of the recited features of independent claim 34 that is not disclosed by Wakeman is “wherein the handle is adapted to be gripped by a user...in a second orientation at the desired

cross-sectional area to enable the user to operate the trigger with one of a thumb and the palm of a hand by placing the one of a thumb and the palm of a hand on the trigger.”

The handle 38 of Wakeman is not adapted to enable a user to operate the trigger with one of a thumb or the palm of a hand. The handle 38 is clearly constructed to enable the trigger 40 to be operated only by placing a finger on the trigger 40, not by placing a palm of a hand or a thumb on the trigger 40. Therefore, Wakeman does not disclose all of the recited features of independent claim 34. Accordingly, the Wakeman reference does not anticipate claim 34.

Independent Claim 35

Finally, among the recited features of independent claim 35 that are not disclosed by the Wakeman reference are “a handle portion securable to a welding cable and adapted to direct the welding cable linearly along an axis through the handle portion, the handle portion having a varying cross-sectional area adapted to enable a user to grip the handle portion at a plurality of cross-sectional areas” and “wherein the handle portion is adapted to be gripped by a hand in a first orientation and a second orientation relative to the hand, the handle portion being rotated 180 degrees about the axis from the first to the second orientation.” The handle 38 of Wakeman directs a welding cable 30 through the handle 38. However, the handle 38 is curved and cannot direct a welding cable linearly along an axis through the handle. Therefore, Wakeman does not disclose all of the recited features of independent claim 35.

Accordingly, the Wakeman reference does not anticipate claim 35. Claim 36 depends from independent claim 35. Therefore, claim 36 also is not anticipated by the Wakeman reference.

Allowable Subject Matter

Claims 27-33 were allowed. Applicant once again would like to thank the Examiner for indicating the allowability of claims 27-33.

Claims 7 and 20-23 were objected to as being dependent upon a rejected base claim, but allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 22 depends from claim 21. By the present Response, claims 7, 21, and 23 have been rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 20 depends from independent claim 16 and is believed patentable based on its dependence from claim 16, as well as by virtue of its own recited subject matter. Accordingly, claims 7 and 20-23 are believed in condition for allowance.

The Commissioner is authorized to charge the requisite fee of \$258.00 for the three additional independent claims, and any additional fees which may be required, to the credit card listed on the attached PTO-2038. However, if the PTO-2038 is missing, if the amount listed thereon is insufficient, or if the amount is unable to be charged to the credit card for any other reason, the Commissioner is authorized to charge Deposit Account No. 06-1315; Order No. ITWO:0009/YOD for the additional fees.

Conclusion

In view of the remarks and amendments set forth above, Applicant respectfully requests allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date: April 26, 2004



Ralph A. Graham
Reg. No. 47,607
FLETCHER YODER
P.O. Box 692289
Houston, TX 77269-2289
(281) 970-4545